

6:1-95

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2000 **CHAPTER:** 165
NJSA: 6:1-95 (Airports – purchase development rights)
BILL NO: A2332 (Substituted for S1450)
SPONSOR(S): DeCroce and Felice
DATE INTRODUCED: May 1, 2000
COMMITTEE: **ASSEMBLY:** Transportation; Appropriations
SENATE: ----
AMENDED DURING PASSAGE: Yes
DATE OF PASSAGE: **ASSEMBLY:** June 29, 2000; Re-enacted October 30, 2000
SENATE: June 29, 2000; Re-enacted December 4, 2000
DATE OF APPROVAL: December 14, 2000

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Assembly Committee Substitute – 2nd reprint)
 (Amendments during passage denoted by superscript numbers)

A2332

SPONSORS STATEMENT: (Begins on page 3 of original bill) Yes
COMMITTEE STATEMENT: **ASSEMBLY:** Yes 5-8-2000 (Transport.)
 6-22-2000 (Approp.)
SENATE: No

FLOOR AMENDMENT STATEMENTS: No
LEGISLATIVE FISCAL ESTIMATE: No

S1450

SPONSORS STATEMENT: (Begins on page 3 of original bill) Yes
COMMITTEE STATEMENT: **ASSEMBLY:** No
SENATE: Yes 6-15-00 (Transport.)
 Identical to Assembly Transport. Committee statement to A2332
 6-26-00 (Budget)

FLOOR AMENDMENT STATEMENTS: No
LEGISLATIVE FISCAL ESTIMATE: No
LAST VERSION (first reprint) Yes

VETO MESSAGE: Yes
GOVERNOR’S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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NEWSPAPER ARTICLES: No

ASSEMBLY, No. 2332

STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED MAY 1, 2000

Sponsored by:

Assemblyman ALEX DECROCE

District 26 (Essex, Morris and Passaic)

Assemblyman NICHOLAS R. FELICE

District 40 (Bergen and Passaic)

SYNOPSIS

Authorizes transfer of development rights associated with certain public use airports.

CURRENT VERSION OF TEXT

As introduced.



A2332 DECROCE, FELICE

2

1 AN ACT authorizing the transfer of development rights associated with
2 certain public use airports and amending P.L.1993, c.339 and
3 P.L.1983, c.264.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. Section 2 of P.L.1993, c.339 (C.4:1C-50) is amended to read as
9 follows:

10 2. As used in this act:

11 "Board" means the board of directors of the State Transfer of
12 Development Rights Bank established pursuant to section 3 of this act;

13 "Development potential" means the maximum number of dwelling
14 units or square feet of nonresidential floor area that may be
15 constructed on a specified lot or in a specified zone under the master
16 plan and land use regulations in effect on the date of the adoption of
17 the development transfer ordinance, and in accordance with
18 recognized environmental constraints;

19 "Development transfer" means the conveyance of development
20 potential, or the permission for development, from one or more lots to
21 one or more other lots by deed, easement, or other means as
22 authorized by ordinance adopted pursuant to law;

23 "Instrument" means the easement, credit, or other deed restriction
24 used to record a development transfer;

25 "State Transfer of Development Rights Bank," "bank" or "State
26 TDR Bank" means the bank established pursuant to section 3 of this
27 act, and shall constitute the development potential transfer bank for
28 the purposes of P.L.1989, c.183 and P.L. , c. (C.) (pending
29 before the Legislature as this bill).

30 (cf: P.L.1993, c.339, s.2)

31

32 2. Section 11 of P.L.1983, c.264 (C.6:1-95) is amended to read as
33 follows:

34 11. The commissioner may acquire airports or lands or rights
35 therein, including aviation easements necessary for clear zones or clear
36 areas, by gift, devise or purchase, when it is deemed to be necessary
37 for the safe operation of the airport and the general public safety or
38 necessary for the continued operations of an airport which is deemed
39 to be necessary for a safe and efficient air transportation system in the
40 State. In addition, to the extent that funds are made available, either
41 through the "State Transfer of Development Rights Bank," established
42 pursuant to section 2 of P.L.1993, c.339 (C.4:1C-50) or otherwise, the
43 commissioner may acquire the development rights associated with any

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 privately owned public use airport, so long as a covenant providing
2 that the airport shall remain a public use airport in perpetuity is
3 included in the instrument recording the development transfer.
4 Development rights may be acquired immediately, or over such time
5 as may be negotiated, by contract, between the airport owner and the
6 commissioner.

7 Notwithstanding the authorization contained herein, prior to
8 acquiring any development rights pursuant to this section, the
9 commissioner shall develop a formula which shall be used by the
10 department in determining the value of any development rights which
11 may be acquired by the department under P.L. , c. (C .)
12 (pending before the Legislature as this bill). The formula shall be
13 promulgated by the department as a procedural regulation pursuant to
14 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
15 seq.).

16 The commissioner may contract for the operation of these facilities
17 on a temporary basis or retain ownership of the facilities without
18 operating them. [He] The commissioner may also sell any airport or
19 airport land so acquired to a county or municipality or other public
20 bodies on the condition that they operate the facility as an airport and
21 that they may not sell the land without the commissioner's approval.

22 In addition, the commissioner shall develop guidelines to enable
23 private owners of public use airports to sell or transfer their
24 development rights to private parties, provided that a covenant
25 ensuring that the airport shall remain a public use airport in perpetuity
26 is recorded in the instrument recording the development transfer.

27 (cf: P.L.1983, c.264, s.11)

28

29 3. This act shall take effect immediately.

30

31

32

STATEMENT

33

34 This bill is intended to implement a major recommendation of the
35 New Jersey "General Aviation Study Commission," created pursuant
36 to P.L.1993, c.336, which recommendation is designed to relieve some
37 of the considerable development pressure which currently threatens the
38 long term viability of certain general aviation facilities in the State.

39 Specifically, the bill authorizes the Commissioner of Transportation,
40 to the extent funds are made available, to acquire the development
41 rights associated with any privately owned public use airport, so long
42 as there is a covenant placed in the instrument recording the
43 development transfer providing that the airport will remain a public
44 use airport in perpetuity.

45 In addition, the bill requires the Commissioner of Transportation to
46 develop guidelines to enable private owners of public use airports to

A2332 DECROCE, FELICE

4

1 sell or transfer their development rights to private parties, provided
2 that a covenant is placed in the instrument recording the development
3 transfer insuring that the airport will remain a public use airport in
4 perpetuity.

5 Finally, the bill amends the law establishing the State Transfer of
6 Development Rights Bank to authorize the use of that development
7 potential transfer bank to finance the purchase of development rights
8 associated with privately owned public use airports, as authorized by
9 this bill.

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 2332

STATE OF NEW JERSEY
209th LEGISLATURE

ADOPTED MAY 8, 2000

Sponsored by:

Assemblyman ALEX DECROCE

District 26 (Essex, Morris and Passaic)

Assemblyman NICHOLAS R. FELICE

District 40 (Bergen and Passaic)

SYNOPSIS

Authorizes purchase by DOT of development rights associated with certain public use airports; appropriates \$5 million.

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Transportation Committee.



1 AN ACT authorizing the purchase of development rights associated
2 with certain public use airports, amending and supplementing
3 P.L.1983, c.264, and making an appropriation.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 11 of P.L.1983, c.264 (C.6:1-95) is amended to read
9 as follows:

10 11. The commissioner may acquire airports or lands or rights
11 therein, including aviation easements necessary for clear zones or clear
12 areas, by gift, devise or purchase, when it is deemed to be necessary
13 for the safe operation of the airport and the general public safety or
14 necessary for the continued operations of an airport which is deemed
15 to be necessary for a safe and efficient air transportation system in the
16 State. In addition, the commissioner may acquire the development
17 rights associated with any privately owned public use airport, as long
18 as a covenant providing that the airport shall remain a public use
19 airport in perpetuity is included in the instrument recording the
20 development rights purchase. Development rights may be acquired
21 immediately, or over such time as may be negotiated, by contract,
22 between the airport owner and the commissioner.

23 [The commissioner may contract for the operation of these
24 facilities on a temporary basis or retain ownership of the facilities
25 without operating them. He] If the commissioner acquires an airport,
26 the commissioner may contract for the operation of the airport or
27 retain ownership without operating it. The commissioner may also sell
28 any airport or airport land so acquired to a county or municipality or
29 other public bodies on the condition that they operate the facility as an
30 airport and that they may not sell the land without the commissioner's
31 approval.

32 Every contract for the transfer of a public use airport in connection
33 with which the development rights have been sold pursuant to this
34 section shall contain a provision providing for the operation of that
35 airport as a public use airport in perpetuity.

36 The Legislature shall, in addition to the appropriation made
37 pursuant to section 3 of P.L. , c. (C.) (pending before the
38 Legislature as this bill), make such other annual appropriations in
39 future years as shall be necessary to effectuate the purposes of
40 P.L. , c. (C.) (pending before the Legislature as this bill) in
41 future years.

42 (cf: P.L.1983, c.264, s.11)

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 2. (New section) The Commissioner of Transportation shall
2 submit to the Legislature for approval a summary of the terms and
3 conditions of each purchase of development rights and the purchase
4 price thereof, as authorized pursuant to section 1 of P.L. , c.
5 (C.) (pending before the Legislature as this bill). The
6 commissioner shall make the submission to the President of the Senate
7 and the Speaker of the General Assembly on a day when both houses
8 are meeting. The President and the Speaker shall cause the date of
9 submission to be entered upon the Senate Journal and the Minutes of
10 the General Assembly, respectively.

11 Unless the purchase, as described in the submission, is disapproved
12 by adoption of a concurrent resolution to that effect by the affirmative
13 vote of a majority of the authorized membership of both houses within
14 the time period prescribed in this section, the purchase shall be deemed
15 approved and the commissioner shall be authorized to undertake the
16 purchase. The time period shall commence on the day of submission
17 and expire on the forty-fifth day after submission or for a house not
18 meeting on the forty-fifth day, on the next meeting day of that house.
19

20 3. There is appropriated from the General Fund to the Department
21 of Transportation the sum of \$5,000,000 for the purchase of
22 development rights associated with privately owned public use airports
23 as provided in section 1 of P.L. , c. (C.) (pending before the
24 Legislature as this bill).

25

26 4. This act shall take effect immediately.

[Corrected Copy]

ASSEMBLY TRANSPORTATION COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 2332

STATE OF NEW JERSEY

DATED: MAY 8, 2000

The Assembly Transportation Committee reports favorably Assembly Committee Substitute for Assembly Bill No. 2332.

This committee substitute is intended to implement a major recommendation of the New Jersey "General Aviation Study Commission," created pursuant to P.L.1993, c.336. This bill is designed to relieve some of the considerable development pressure which currently threatens the long term viability of certain general aviation facilities in the State. Specifically, the bill authorizes the Commissioner of Transportation to acquire the development rights associated with any privately owned public use airport, as long as there is a covenant placed in the instrument recording the development transfer providing that the airport will remain a public use airport in perpetuity.

In addition, the committee substitute stipulates that every contract for the transfer of a public use airport in connection with which the development rights have been sold shall contain a provision providing for the operation of that airport as a public use airport in perpetuity.

The committee substitute also states that if the commissioner acquires an airport, the commissioner may contract for the operation of the airport or retain ownership without operating it. This is a change from the current law which states that the commissioner may contract for the operation of an airport on a temporary basis or retain ownership of the facilities without operating it.

The committee substitute requires the Commissioner of Transportation to submit to the Legislature for approval a summary of the terms and conditions of each purchase of development rights and the purchase price thereof. The commissioner is required to make the submission to the President of the Senate and the Speaker of the General Assembly on a day when both houses are meeting. The President and the Speaker are required to cause the date of submission to be entered upon the Senate Journal and the Minutes of the General

Assembly, respectively.

Unless the purchase, as described in the submission, is disapproved by adoption of a concurrent resolution to that effect by the affirmative vote of a majority of the authorized membership of both houses within the time period prescribed, the purchase shall be deemed approved and the commissioner shall be authorized to undertake the purchase. The time period shall commence on the day of submission and expire on the forty-fifth day after submission.

The committee substitute makes an appropriation of \$5,000,000 from the General Fund to purchase development rights associated with privately owned public use airports, and states that the Legislature shall make such other appropriations in future years as shall be necessary to effectuate the purposes of the legislation.

ASSEMBLY TRANSPORTATION COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 2332

STATE OF NEW JERSEY

DATED: MAY 8, 2000

The Assembly Transportation Committee reports favorably Assembly Committee Substitute for Assembly Bill No. 2332.

This committee substitute is intended to implement a major recommendation of the New Jersey "General Aviation Study Commission," created pursuant to P.L.1993,c.336. This bill is designed to relieve some of the considerable development pressure which currently threatens the long term viability of certain general aviation facilities in the State. Specifically, the bill authorizes the Commissioner of Transportation to acquire the development rights associated with any privately owned public use airport, as long as there is a covenant placed in the instrument recording the development transfer providing that the airport will remain a public use airport in perpetuity.

In addition, the committee substitute stipulates that every contract for the transfer of a public use airport in connection with which the development rights have been sold shall contain a provision providing for the operation of that airport as a public use airport in perpetuity.

The committee substitute requires the Commissioner of Transportation to submit to the Legislature for approval a summary of the terms and conditions of each purchase of development rights and the purchase price thereof. The commissioner is required to make the submission to the President of the Senate and the Speaker of the General Assembly on a day when both houses are meeting. The President and the Speaker are required to cause the date of submission to be entered upon the Senate Journal and the Minutes of the General Assembly, respectively.

Unless the purchase, as described in the submission, is disapproved by adoption of a concurrent resolution to that effect by the affirmative vote of a majority of the authorized membership of both houses within the time period prescribed, the purchase shall be deemed approved and the commissioner shall be authorized to undertake the purchase. The time period shall commence on the day of submission and expire on the forty-fifth day after submission.

The committee substitute makes an appropriation of \$5,000,000

from the General Fund to purchase development rights associated with privately owned public use airports, and states that the Legislature shall make such other appropriations in future years as shall be necessary to effectuate the purposes of the legislation.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 2332**

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JUNE 22, 2000

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2332, with committee amendments.

Assembly Bill No. 2332 (ACS), as amended, implements a major recommendation of the New Jersey "General Aviation Study Commission," created pursuant to P.L.1993, c.336 and alleviates some of the considerable development pressure threatening the long-term viability of certain general aviation facilities in the State.

The bill authorizes the Commissioner of Transportation to acquire the development rights associated with any privately owned and any county or municipally owned unrestricted public use airport, if there is a covenant placed in the instrument recording the development transfer providing that the airport will remain a public use airport in perpetuity.

The bill requires that every contract for the transfer of a public use airport for which the commissioner has acquired development rights under the bill shall contain a provision providing for the operation of that airport as a public use airport in perpetuity.

The bill permits the commissioner to contract for the operation of an acquired airport or retain ownership without operating it. (A change from current law, which states that the commissioner may contract for the operation of an airport on a temporary basis or retain ownership of the facilities without operating it.)

The bill requires the commissioner to submit a summary of the terms and conditions of each purchase of development rights and the purchase price thereof to the Legislature for approval. Unless the purchase is disapproved by adoption of a concurrent resolution within 45 days, the purchase shall be deemed approved

FISCAL IMPACT:

The bill appropriates \$5,000,000 from the General Fund to purchase development rights associated with unrestricted public use airports, and states that the Legislature shall make such other

appropriations in future years as shall be necessary to effectuate the purposes of the legislation.

COMMITTEE AMENDMENTS:

The amendments expand the bill to cover the acquisition of development rights of county and municipal unrestricted public use airports.

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 2332

STATE OF NEW JERSEY
209th LEGISLATURE

ADOPTED MAY 8, 2000

Sponsored by:

Assemblyman ALEX DECROCE

District 26 (Essex, Morris and Passaic)

Assemblyman NICHOLAS R. FELICE

District 40 (Bergen and Passaic)

Co-Sponsored by:

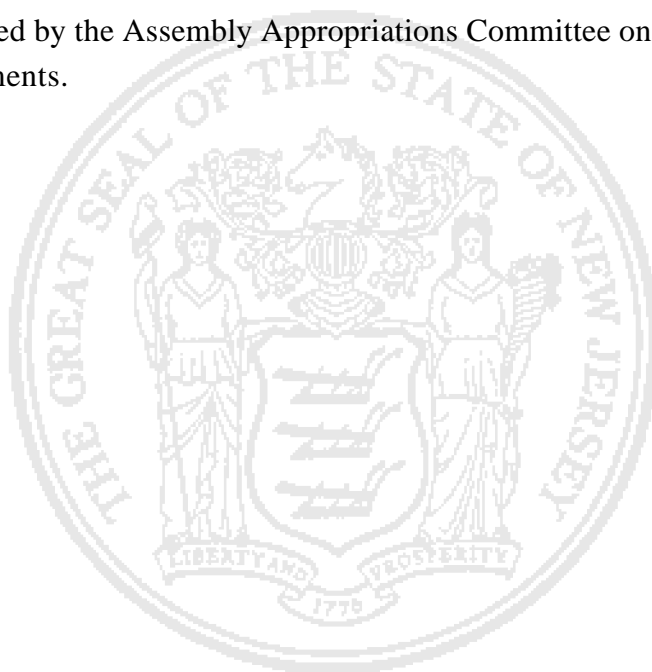
Senators Sacco and Turner

SYNOPSIS

Authorizes purchase by DOT of development rights associated with certain public use airports; appropriates \$5 million.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on June 22, 2000, with amendments.



(Sponsorship Updated As Of: 6/30/2000)

1 AN ACT authorizing the purchase of development rights associated
2 with certain public use airports, amending and supplementing
3 P.L.1983, c.264, and making an appropriation.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. Section 11 of P.L.1983, c.264 (C.6:1-95) is amended to read
9 as follows:

10 11. The commissioner may acquire airports or lands or rights
11 therein, including aviation easements necessary for clear zones or clear
12 areas, by gift, devise or purchase, when it is deemed to be necessary
13 for the safe operation of the airport and the general public safety or
14 necessary for the continued operations of an airport which is deemed
15 to be necessary for a safe and efficient air transportation system in the
16 State. In addition, the commissioner may acquire the development
17 rights associated with any privately owned¹ and any county or
18 municipally owned unrestricted¹ public use airport, as long as a
19 covenant providing that the airport shall remain¹ [a] an unrestricted¹
20 public use airport in perpetuity is included in the instrument recording
21 the development rights purchase. Development rights may be acquired
22 immediately, or over such time as may be negotiated, by contract,
23 between the airport owner and the commissioner.

24 [The commissioner may contract for the operation of these
25 facilities on a temporary basis or retain ownership of the facilities
26 without operating them. He] If the commissioner acquires an airport,
27 the commissioner may contract for the operation of the airport or
28 retain ownership without operating it. The commissioner may also sell
29 any airport or airport land so acquired to a county or municipality or
30 other public bodies on the condition that they operate the facility as an
31 airport and that they may not sell the land without the commissioner's
32 approval.

33 Every contract for the transfer of a public use airport in connection
34 with which the development rights have been sold pursuant to this
35 section shall contain a provision providing for the operation of that
36 airport as¹ [a] an unrestricted¹ public use airport in perpetuity.

37 The Legislature shall, in addition to the appropriation made
38 pursuant to section 3 of P.L. , c. (C.) (pending before the

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AAP committee amendments adopted June 22, 2000.

1 Legislature as this bill), make such other annual appropriations in
2 future years as shall be necessary to effectuate the purposes of
3 P.L. , c. (C.) (pending before the Legislature as this bill) in
4 future years.

5 (cf: P.L.1983, c.264, s.11)

6

7 2. (New section) The Commissioner of Transportation shall
8 submit to the Legislature for approval a summary of the terms and
9 conditions of each purchase of development rights and the purchase
10 price thereof, as authorized pursuant to section 1 of P.L. , c.
11 (C.) (pending before the Legislature as this bill). The
12 commissioner shall make the submission to the President of the Senate
13 and the Speaker of the General Assembly on a day when both houses
14 are meeting. The President and the Speaker shall cause the date of
15 submission to be entered upon the Senate Journal and the Minutes of
16 the General Assembly, respectively.

17 Unless the purchase, as described in the submission, is disapproved
18 by adoption of a concurrent resolution to that effect by the affirmative
19 vote of a majority of the authorized membership of both houses within
20 the time period prescribed in this section, the purchase shall be deemed
21 approved and the commissioner shall be authorized to undertake the
22 purchase. The time period shall commence on the day of submission
23 and expire on the forty-fifth day after submission or for a house not
24 meeting on the forty-fifth day, on the next meeting day of that house.

25

26 3. There is appropriated from the General Fund to the Department
27 of Transportation the sum of \$5,000,000 for the purchase of
28 development rights associated with privately owned ¹and county or
29 municipally owned unrestricted¹ public use airports as provided in
30 section 1 of P.L. , c. (C.) (pending before the Legislature as
31 this bill).

32

33 4. This act shall take effect immediately.

[Second Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 2332

STATE OF NEW JERSEY
209th LEGISLATURE

ADOPTED MAY 8, 2000

Sponsored by:

Assemblyman ALEX DECROCE

District 26 (Essex, Morris and Passaic)

Assemblyman NICHOLAS R. FELICE

District 40 (Bergen and Passaic)

Co-Sponsored by:

Senators Sacco and Turner

SYNOPSIS

Authorizes purchase by DOT of development rights associated with certain public use airports; appropriates \$2.5 million.

CURRENT VERSION OF TEXT

As amended on September 25, 2000 by the General Assembly pursuant to the Governor's recommendations.



(Sponsorship Updated As Of: 6/30/2000)

1 AN ACT authorizing the purchase of development rights associated
2 with certain public use airports, amending and supplementing
3 P.L.1983, c.264, and making an appropriation.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 11 of P.L.1983, c.264 (C.6:1-95) is amended to read
9 as follows:

10 11. ²a.² The commissioner may acquire airports or lands or rights
11 therein, including aviation easements necessary for clear zones or clear
12 areas, by gift, devise or purchase, when it is deemed to be necessary
13 for the safe operation of the airport and the general public safety or
14 necessary for the continued operations of an airport which is deemed
15 to be necessary for a safe and efficient air transportation system in the
16 State. In addition, the commissioner may acquire the development
17 rights associated with any privately owned¹ and any county or
18 municipally owned unrestricted¹ public use airport, as long as a
19 covenant providing that the airport shall remain¹ [a] an unrestricted¹
20 public use airport in perpetuity is included in the instrument recording
21 the development rights purchase. Development rights may be acquired
22 immediately, or over such time as may be negotiated, by contract,
23 between the airport owner and the commissioner.

24 [The commissioner may contract for the operation of these
25 facilities on a temporary basis or retain ownership of the facilities
26 without operating them. He] ²b. If the commissioner acts to acquire
27 development rights pursuant to subsection a. of this section, at least
28 30 days prior to submitting a summary of the terms and conditions of
29 such proposed purchase of development rights to the Legislature for
30 approval pursuant to section 2 of P.L. , c. (C.)(pending before the
31 Legislature as this bill), the commissioner shall:

32 (1) Acquire and consider at least two independent appraisals of
33 the value of the development rights to be purchased;

34 (2) Hold a public hearing on the proposed purchase of the
35 development rights at a site in or convenient to the municipality or
36 municipalities in which those development rights are proposed to be
37 acquired; and

38 (3) Provide notice of the public hearing, notice of the intent to
39 acquire development rights, a summary of the proposed terms and
40 conditions of the proposed purchase of the development rights, and a

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AAP committee amendments adopted June 22, 2000.

² Assembly amendments adopted in accordance with Governor's recommendations September 25, 2000.

1 copy of any appraisals made pursuant to paragraph (1) of this
2 subsection to the governing bodies of the municipality and county in
3 which the development rights are proposed to be acquired, and to the
4 members of the State Legislature representing the district in which the
5 development rights are proposed to be acquired.

6 c.² If the commissioner acquires an airport, the commissioner may
7 contract for the operation of the airport or retain ownership without
8 operating it. The commissioner may also sell any airport or airport
9 land so acquired to a county or municipality or other public bodies on
10 the condition that they operate the facility as an airport and that they
11 may not sell the land without the commissioner's approval.

12 ²d.² Every contract for the transfer of a public use airport in
13 connection with which the development rights have been sold pursuant
14 to this section shall contain a provision providing for the operation of
15 that airport as ¹[a] an unrestricted¹ public use airport in perpetuity.

16 ²e. As used in this section, the term "unrestricted public use
17 airport" shall only means unrestricted public use airport as the term is
18 defined in section 3 of P.L.1983, c.264 (C.6:1-91) and shall be used
19 in this section for airport license classification purposes pursuant to
20 Title 6 of the Revised Statutes.

21 f.² The Legislature shall, in addition to the appropriation made
22 pursuant to section 3 of P.L. , c. (C.) (pending before the
23 Legislature as this bill), make such other annual appropriations in
24 future years as shall be necessary to effectuate the purposes of
25 P.L. , c. (C.) (pending before the Legislature as this bill) in
26 future years.

27 (cf: P.L.1983, c.264, s.11)

28

29 2. (New section) The Commissioner of Transportation shall
30 submit to the Legislature for approval a summary of the terms and
31 conditions of each purchase of development rights and the purchase
32 price thereof, as authorized pursuant to section 1 of P.L. , c.
33 (C.) (pending before the Legislature as this bill). The
34 commissioner shall make the submission to the President of the Senate
35 and the Speaker of the General Assembly on a day when both houses
36 are meeting. The President and the Speaker shall cause the date of
37 submission to be entered upon the Senate Journal and the Minutes of
38 the General Assembly, respectively.

39 Unless the purchase, as described in the submission, is disapproved
40 by adoption of a concurrent resolution to that effect by the affirmative
41 vote of a majority of the authorized membership of both houses within
42 the time period prescribed in this section, the purchase shall be deemed
43 approved and the commissioner shall be authorized to undertake the
44 purchase. The time period shall commence on the day of submission
45 and expire on the forty-fifth day after submission or for a house not
46 meeting on the forty-fifth day, on the next meeting day of that house.

- 1 3. There is appropriated from the General Fund to the Department
- 2 of Transportation the sum of ²[\$5,000,000] \$2,500,000² for the
- 3 purchase of development rights associated with privately owned public
- 4 use airports as provided in section 1 of P.L. , c. (C.)
- 5 (pending before the Legislature as this bill).
- 6
- 7 4. This act shall take effect immediately.

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY BILL NO. 2332 (FIRST REPRINT)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Committee Substitute for Assembly Bill No. 2332 (First Reprint), with my recommendations for reconsideration.

A. Summary of Bill

This bill authorizes the Commissioner of Transportation to acquire the development rights associated with any privately owned public use airport, or any county and municipally owned unrestricted public use airport. The bill requires that the instrument recording the transfer of development rights contain a covenant that the airport will remain a public use airport in perpetuity. The terms of any purchase authorized under this bill must be submitted to the Legislature for approval. The purchase would be deemed approved unless it is affirmatively disapproved by the Legislature within forty-five days of submission. The bill appropriates \$5 million from the General Fund to the Department of Transportation to purchase these development rights.

B. Recommended Action

I support this bill as an important measure towards preserving the long-term viability of public use airports throughout the State. Preservation of these airports is necessary for the maintenance of a safe and efficient air transportation system in the State. However, increasing development pressure threatens the future of many such facilities that are absolutely essential to our aviation infrastructure. This bill will allow the State to provide financial incentives to airport owners to prevent future development of these facilities, while allowing continued ownership and operation of the facility by the current owner. I am, however, constrained to return this bill with my recommendation for reconsideration for the following reasons.

First, I am aware of local concerns regarding issues of airport expansion, zoning authority, and land use. Because airports have a unique impact on surrounding communities, I am clarifying that municipalities retain their existing authority and shall be afforded an opportunity for reasonable participation in the process. Therefore, I recommend that the bill be amended to clarify the term “unrestricted public use airport” as

an aviation term that does not modify or infringe upon existing municipal zoning or land use authority. I further recommend that the bill be amended to require the Department of Transportation to obtain two independent appraisals of the development rights to be purchased and to provide notice and a public hearing on the proposal at a site convenient to the affected municipalities.

Second, I hereby reduce the \$5 million General Fund appropriation to \$2.5 million since this amount is sufficient to address the immediate needs of the Department of Transportation, with future funding to be considered as part of future budgets.

Therefore, I herewith return Assembly Committee Substitute for Assembly Bill No. 2332 (First Reprint), and recommend that it be amended as follows:

Page 2, Section 1, Line 10:

After "11." Insert "a."

Page 2, Section 1, Line 26:

Before "If" insert "b. If the commissioner acts to acquire development rights pursuant to subsection a. of this section, at least 30 days prior to submitting a summary of the terms and conditions of such proposed purchase of development rights to the Legislature for approval pursuant to section 2 of P.L. , (C.)(pending before the Legislature as this bill), the commissioner shall:

(1) Acquire and consider at least two independent appraisals of the value of the development rights to be purchased;

(2) Hold a public hearing on the proposed purchase of the development rights at a site in or convenient to the municipality or municipalities in which those development rights are proposed to be acquired; and

(3) Provide notice of the public hearing, notice of the intent to acquire development rights, a summary of the proposed terms and conditions of the proposed purchase of the development rights, and a copy of any appraisals made pursuant to paragraph (1) of this subsection to the governing bodies of the municipality and county in which the development rights are proposed to be acquired, and to the members of the State Legislature representing the district in which the development rights are proposed to be acquired.

c. “

Page 2, Section 1, Line 33:

Before “Every” and insert “d. “

Page 2, Section 1, Line 37:

Insert “e. As used in this act, the term “unrestricted public use airport” shall only mean unrestricted public use airport as the term is defined in section 3 of P.L. 1983, c. 264 (C. 6:1-91) and shall be used in this act for airport license classification purposes pursuant to Title 6 of the Revised Statutes.

f.”

Page 3, Section 3, Line 27:

Delete “\$5,000,000” and insert “\$2,500,000”

Respectfully,

/s/ Christine Todd Whitman

Governor

[seal]

Attest:

/s/ Robert E. Fabricant

Chief Counsel to the Governor

P.L. 2000, CHAPTER 165, *approved December 14, 2000*
Assembly Committee Substitute (*Second Reprint*) for
Assembly, No. 2332

1 AN ACT authorizing the purchase of development rights associated
2 with certain public use airports, amending and supplementing
3 P.L.1983, c.264, and making an appropriation.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. Section 11 of P.L.1983, c.264 (C.6:1-95) is amended to read
9 as follows:

10 11. ²a.² The commissioner may acquire airports or lands or rights
11 therein, including aviation easements necessary for clear zones or clear
12 areas, by gift, devise or purchase, when it is deemed to be necessary
13 for the safe operation of the airport and the general public safety or
14 necessary for the continued operations of an airport which is deemed
15 to be necessary for a safe and efficient air transportation system in the
16 State. In addition, the commissioner may acquire the development
17 rights associated with any privately owned ¹and any county or
18 municipally owned unrestricted¹ public use airport, as long as a
19 covenant providing that the airport shall remain ¹[a] an unrestricted¹
20 public use airport in perpetuity is included in the instrument recording
21 the development rights purchase. Development rights may be acquired
22 immediately, or over such time as may be negotiated, by contract,
23 between the airport owner and the commissioner.

24 [The commissioner may contract for the operation of these
25 facilities on a temporary basis or retain ownership of the facilities
26 without operating them. He] ²b. If the commissioner acts to acquire
27 development rights pursuant to subsection a. of this section, at least
28 30 days prior to submitting a summary of the terms and conditions of
29 such proposed purchase of development rights to the Legislature for
30 approval pursuant to section 2 of P.L. , c. (C.)(pending before the
31 Legislature as this bill), the commissioner shall:

32 (1) Acquire and consider at least two independent appraisals of
33 the value of the development rights to be purchased;

34 (2) Hold a public hearing on the proposed purchase of the
35 development rights at a site in or convenient to the municipality or
36 municipalities in which those development rights are proposed to be
37 acquired; and

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AAP committee amendments adopted June 22, 2000.

² Assembly amendments adopted in accordance with Governor's recommendations September 25, 2000.

1 (3) Provide notice of the public hearing, notice of the intent to
2 acquire development rights, a summary of the proposed terms and
3 conditions of the proposed purchase of the development rights, and a
4 copy of any appraisals made pursuant to paragraph (1) of this
5 subsection to the governing bodies of the municipality and county in
6 which the development rights are proposed to be acquired, and to the
7 members of the State Legislature representing the district in which the
8 development rights are proposed to be acquired.

9 c.² If the commissioner acquires an airport, the commissioner may
10 contract for the operation of the airport or retain ownership without
11 operating it. The commissioner may also sell any airport or airport
12 land so acquired to a county or municipality or other public bodies on
13 the condition that they operate the facility as an airport and that they
14 may not sell the land without the commissioner's approval.

15 ²d.² Every contract for the transfer of a public use airport in
16 connection with which the development rights have been sold pursuant
17 to this section shall contain a provision providing for the operation of
18 that airport as ¹[a] an unrestricted¹ public use airport in perpetuity.

19 ²e. As used in this section, the term "unrestricted public use
20 airport" shall only means unrestricted public use airport as the term is
21 defined in section 3 of P.L.1983, c.264 (C.6:1-91) and shall be used
22 in this section for airport license classification purposes pursuant to
23 Title 6 of the Revised Statutes.

24 f.² The Legislature shall, in addition to the appropriation made
25 pursuant to section 3 of P.L. , c. (C.) (pending before the
26 Legislature as this bill), make such other annual appropriations in
27 future years as shall be necessary to effectuate the purposes of
28 P.L. , c. (C.) (pending before the Legislature as this bill) in
29 future years.

30 (cf: P.L.1983, c.264, s.11)

31
32 2. (New section) The Commissioner of Transportation shall
33 submit to the Legislature for approval a summary of the terms and
34 conditions of each purchase of development rights and the purchase
35 price thereof, as authorized pursuant to section 1 of P.L. , c.
36 (C.) (pending before the Legislature as this bill). The
37 commissioner shall make the submission to the President of the Senate
38 and the Speaker of the General Assembly on a day when both houses
39 are meeting. The President and the Speaker shall cause the date of
40 submission to be entered upon the Senate Journal and the Minutes of
41 the General Assembly, respectively.

42 Unless the purchase, as described in the submission, is disapproved
43 by adoption of a concurrent resolution to that effect by the affirmative
44 vote of a majority of the authorized membership of both houses within
45 the time period prescribed in this section, the purchase shall be deemed
46 approved and the commissioner shall be authorized to undertake the

1 purchase. The time period shall commence on the day of submission
2 and expire on the forty-fifth day after submission or for a house not
3 meeting on the forty-fifth day, on the next meeting day of that house.

4

5 3. There is appropriated from the General Fund to the Department
6 of Transportation the sum of ²[\$5,000,000] \$2,500,000² for the
7 purchase of development rights associated with privately owned public
8 use airports as provided in section 1 of P.L. , c. (C.)
9 (pending before the Legislature as this bill).

10

11 4. This act shall take effect immediately.

12

13

14

15

16 Authorizes purchase by DOT of development rights associated with
17 certain public use airports; appropriates \$2.5 million.

CHAPTER 165

AN ACT authorizing the purchase of development rights associated with certain public use airports, amending and supplementing P.L.1983, c.264, and making an appropriation.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 11 of P.L.1983, c.264 (C.6:1-95) is amended to read as follows:

C.6:1-95 Powers of commissioner.

11. a. The commissioner may acquire airports or lands or rights therein, including aviation easements necessary for clear zones or clear areas, by gift, devise or purchase, when it is deemed to be necessary for the safe operation of the airport and the general public safety or necessary for the continued operations of an airport which is deemed to be necessary for a safe and efficient air transportation system in the State. In addition, the commissioner may acquire the development rights associated with any privately owned and any county or municipally owned unrestricted public use airport, as long as a covenant providing that the airport shall remain an unrestricted public use airport in perpetuity is included in the instrument recording the development rights purchase. Development rights may be acquired immediately, or over such time as may be negotiated, by contract, between the airport owner and the commissioner.

b. If the commissioner acts to acquire development rights pursuant to subsection a. of this section, at least 30 days prior to submitting a summary of the terms and conditions of such proposed purchase of development rights to the Legislature for approval pursuant to section 2 of P.L.2000, c.186 (C.6:1-95.1), the commissioner shall:

(1) Acquire and consider at least two independent appraisals of the value of the development rights to be purchased;

(2) Hold a public hearing on the proposed purchase of the development rights at a site in or convenient to the municipality or municipalities in which those development rights are proposed to be acquired; and

(3) Provide notice of the public hearing, notice of the intent to acquire development rights, a summary of the proposed terms and conditions of the proposed purchase of the development rights, and a copy of any appraisals made pursuant to paragraph (1) of this subsection to the governing bodies of the municipality and county in which the development rights are proposed to be acquired, and to the members of the State Legislature representing the district in which the development rights are proposed to be acquired.

c. If the commissioner acquires an airport, the commissioner may contract for the operation of the airport or retain ownership without operating it. The commissioner may also sell any airport or airport land so acquired to a county or municipality or other public bodies on the condition that they operate the facility as an airport and that they may not sell the land without the commissioner's approval.

d. Every contract for the transfer of a public use airport in connection with which the development rights have been sold pursuant to this section shall contain a provision providing for the operation of that airport as an unrestricted public use airport in perpetuity.

e. As used in this section, the term "unrestricted public use airport" shall only mean unrestricted public use airport as the term is defined in section 3 of P.L.1983, c.264 (C.6:1-91) and shall be used in this section for airport license classification purposes pursuant to Title 6 of the Revised Statutes.

f. The Legislature shall, in addition to the appropriation made pursuant to section 3 of P.L.2000, c.165, make such other annual appropriations in future years as shall be necessary to effectuate the purposes of P.L.2000, c.165 (C.6:1-95.1 et al.) in future years.

C.6:1-95.1 Submission of summary of terms, conditions to Legislature.

2. The Commissioner of Transportation shall submit to the Legislature for approval a summary of the terms and conditions of each purchase of development rights and the purchase price thereof, as authorized pursuant to section 11 of P.L.1983, c.264 as amended by section 1 of P.L.2000, c.165 (C.6:1-95). The commissioner shall make the submission to the President of the Senate and the Speaker of the General Assembly on a day when both houses are meeting. The President and the Speaker shall cause the date of submission to be entered upon the Senate Journal and the Minutes of the General Assembly, respectively.

Unless the purchase, as described in the submission, is disapproved by adoption of a concurrent resolution to that effect by the affirmative vote of a majority of the authorized membership of both houses within the time period prescribed in this section, the purchase shall be deemed approved and the commissioner shall be authorized to undertake the purchase. The time period shall commence on the day of submission and expire on the forty-fifth day after submission or for a house not meeting on the forty-fifth day, on the next meeting day of that house.

3. There is appropriated from the General Fund to the Department of Transportation the sum of \$2,500,000 for the purchase of development rights associated with privately owned public use airports as provided in section 11 of P.L.1983, c.264 as amended by section 1 of P.L.2000, c.165 (C.6:1-95).

4. This act shall take effect immediately.

Approved December 14, 2000.

PO BOX 004
TRENTON, NJ 08625

Office of the Governor
NEWS RELEASE

CONTACT: Jayne O'Connor
Laura Otterbourg
609-777-2600

RELEASE: December 14, 2000

Governor Christie Whitman today signed the following legislation:

A-2332, sponsored by Assembly Members DeCroce (R-Essex/Morris/Passaic) and Felice (R-Bergen/Passaic), authorizes purchase by the Department of Transportation of development rights associated with certain public use airports and appropriates \$2.5 million. The bill incorporates recommendations made by the Governor in a conditional veto on September 21, 2000.

[NJ Home Page]